

ASSEMBLY BILL

No. 2809

Introduced by Assembly Member Robert Pacheco

February 28, 2000

An act to amend Sections 125085, 125090, and 125100 of, and to repeal Section 125107 of, the Health and Safety Code, relating to HIV testing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2809, as introduced, Robert Pacheco. Human immunodeficiency virus (HIV): maternal and newborn health.

Existing law requires a physician and surgeon to obtain a blood specimen from a pregnant woman before or at the time of delivery. Existing law requires the blood specimen to be tested for rhesus (Rh) blood type and the presence of the hepatitis B surface antigen.

This bill would require that the blood specimen also be tested for the presence of antibodies to the human immunodeficiency virus or HIV. This bill would authorize a pregnant woman to refuse HIV testing if she has been determined to be chronically infected with HIV or if a medical professional explains the purpose of testing and the currently approved treatments.

Existing law requires specified medical entities and professionals to maintain and make information available to the State Department of Health Services regarding testing, treatment, and prevention of perinatally transmitted hepatitis B. Existing law requires the department to make

funds available to requesting counties for testing, treatment, and prevention of hepatitis B.

This bill would require specified medical entities and professionals to maintain and make information available to the department regarding testing, treatment, and prevention of HIV and hepatitis B. This bill would require the department to make funds available to requesting counties for testing, treatment, and prevention of HIV and hepatitis B.

Existing law requires prenatal care providers, as defined, to offer a HIV test, information, counseling, and referral services that include providing certain information to every pregnant woman patient during prenatal care.

This bill would delete this provision.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of
2 the following:

3 (a) The human immunodeficiency virus (HIV)
4 infection rate among women of childbearing years is
5 estimated at 0.6 per 1,000. Universal testing of pregnant
6 women could prevent the perinatal transmission of HIV
7 to the newborn since treatment before or at the time of
8 labor and delivery can prevent transmission to the
9 newborn.

10 (b) A study conducted by the National Institutes of
11 Health (NIH) has shown that treatment of pregnant
12 women with zidovudine (AZT) can reduce transmission
13 of HIV from 25 percent to less than 8 percent.

14 (c) Another NIH study, concluded in 1999, has shown
15 a further reduction of transmission of HIV to
16 approximately 2 percent with a single dose of nevirapine
17 administered at the time of labor and delivery and to the
18 newborn after delivery.

19 (d) The cost of an HIV test in the standard prenatal
20 panel is estimated to cost three dollars (\$3) to five dollars
21 (\$5). The average total lifetime charges for the care of a
22 child with HIV infection is estimated at four hundred

1 ninety-one thousand nine hundred thirty-six dollars
2 (\$491,936), making early detection through universal
3 HIV screening of pregnant women a cost-effective policy.

4 SEC. 2. Section 125085 of the Health and Safety Code
5 is amended to read:

6 125085. (a) A blood specimen obtained pursuant to
7 Section 125080 shall be submitted to a clinical laboratory
8 licensed by the department or to an approved public
9 health laboratory for a determination of rhesus (Rh)
10 blood type and the results shall be reported to both of the
11 following:

12 (1) The physician and surgeon or other person
13 engaged in the prenatal care of the woman or attending
14 the woman at the time of delivery.

15 (2) The woman tested.

16 (b) In addition, a blood specimen obtained pursuant to
17 Section 125080 shall be submitted to a clinical laboratory
18 licensed by the department or to an approved public
19 health laboratory for a test to determine the presence of
20 hepatitis B surface antigen *and the human*
21 *immunodeficiency virus (HIV)*. In the event that other
22 tests to determine hepatitis B infection *or HIV infection*
23 become available, the department may approve
24 additional tests.

25 SEC. 3. Section 125090 of the Health and Safety Code
26 is amended to read:

27 125090. (a) Subdivision (a) of Section 125085 shall
28 not be applicable if the licensed physician and surgeon or
29 other person engaged in the prenatal care of a pregnant
30 woman or attending the woman at the time of delivery
31 has knowledge of the woman's blood type and accepts
32 responsibility for the accuracy of the information.

33 (b) Subdivision (b) of Section 125085 shall not be
34 applicable if the licensed physician and surgeon or other
35 person engaged in the prenatal care of a pregnant woman
36 or attending the woman at the time of delivery has
37 knowledge that the woman has previously been
38 determined to be chronically infected with hepatitis ~~(B)~~
39 *B or human immunodeficiency virus (HIV)* and accepts
40 responsibility for the accuracy of the information.

1 (c) A pregnant woman may refuse testing for HIV on
2 a blood specimen collected pursuant to Section 125080
3 after the purpose of the testing including the risk of
4 perinatal transmission and any currently approved
5 treatment known to prevent perinatal transmission of
6 HIV is explained by a licensed physician and surgeon
7 engaged in the prenatal care of a pregnant woman or
8 attending the woman at the time of delivery. Any refusal
9 of testing for HIV shall be in writing and shall be
10 maintained in the medical record.

11 SEC. 4. Section 125100 of the Health and Safety Code
12 is amended to read:

13 125100. (a) Clinical laboratories licensed by the
14 department, approved public health laboratories, local
15 health departments, physicians and surgeons, or other
16 persons engaged in the prenatal care of a pregnant
17 woman or in the care of an infant shall maintain and make
18 available to the department information necessary to
19 evaluate, for public health purposes, the effectiveness of
20 testing and followup treatment for the prevention of
21 perinatally transmitted hepatitis B infection and
22 perinatally transmitted human immunodeficiency virus
23 (HIV) infection.

24 (b) The department shall make available, to the extent
25 state funds are appropriated therefor in the annual
26 Budget Act or federal funds are available for that
27 purpose, money to each county requesting funds for
28 testing and followup treatment for the prevention of
29 perinatally transmitted hepatitis B infection or
30 perinatally transmitted HIV infection or for any functions
31 performed pursuant to subdivision (a). The money shall
32 be allocated by the department on the basis of the
33 incidence of perinatally transmitted hepatitis B infection
34 and the incidence of perinatally transmitted HIV and the
35 need for necessary followup treatment and evaluation in
36 the requesting county.

37 SEC. 5. Section 125107 of the Health and Safety Code
38 is repealed.

39 ~~125107. (a) For purposes of this section, "prenatal~~
40 ~~care provider" means a licensed health care professional~~

1 ~~providing prenatal care within his or her lawful scope of~~
2 ~~practice. This definition shall not include a licensed~~
3 ~~health care professional who provides care other than~~
4 ~~prenatal care to a pregnant patient.~~

5 ~~(b) The prenatal care provider primarily responsible~~
6 ~~for providing prenatal care to a pregnant patient shall~~
7 ~~offer human immunodeficiency virus (HIV) information~~
8 ~~and counseling to every pregnant patient. This~~
9 ~~information and counseling shall include, but shall not be~~
10 ~~limited to, all of the following:~~

11 ~~(1) A description of the modes of HIV transmission.~~

12 ~~(2) A discussion of risk reduction behavior~~
13 ~~modifications including methods to reduce the risk of~~
14 ~~perinatal transmission.~~

15 ~~(3) Referral information to other HIV prevention and~~
16 ~~psychosocial services, if appropriate, including~~
17 ~~anonymous and confidential test sites approved by the~~
18 ~~Office of AIDS of the State Department of Health~~
19 ~~Services.~~

20 ~~(c) The prenatal care provider primarily responsible~~
21 ~~for providing prenatal care to a pregnant patient shall~~
22 ~~offer an HIV test as defined in Section 120775 to every~~
23 ~~pregnant patient, unless a positive HIV test result is~~
24 ~~already documented in the patient's medical record or~~
25 ~~the patient has AIDS as diagnosed by a physician. The~~
26 ~~offering of an HIV test shall include discussion of all of the~~
27 ~~following:~~

28 ~~(1) The purpose of the test.~~

29 ~~(2) The risks and benefits of the test.~~

30 ~~(3) The voluntary nature of the test.~~

31 ~~(d) If the pregnant woman voluntarily consents to~~
32 ~~testing, the provider shall arrange for HIV testing directly~~
33 ~~or by referral, including, but not limited to, referral to~~
34 ~~anonymous and confidential test sites approved by the~~
35 ~~Office of AIDS of the State Department of Health~~
36 ~~Services.~~

37 ~~(e) The prenatal care provider primarily responsible~~
38 ~~for providing prenatal care to a pregnant patient shall~~
39 ~~document in the patient's medical record that HIV~~
40 ~~information and counseling has been offered. The~~

1 ~~prenatal care provider shall also document the offering of~~
2 ~~the HIV antibody test in the patient's medical record.~~
3 ~~(f) Nothing in this section shall be construed to require~~
4 ~~testing, the documentation or disclosure of whether the~~
5 ~~patient had an HIV test, or the result of an HIV test except~~
6 ~~to the patient. Any documentation or disclosure of HIV~~
7 ~~related information shall be made in accordance with~~
8 ~~Chapter 7 (commencing with Section 120975) of Part 4 of~~
9 ~~Division 105 regarding confidentiality and informed~~
10 ~~consent.~~

